

## § 200.11

### PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP)

#### § 200.11 Participation in NAEP.

(a) *State participation.* Beginning in the 2002-2003 school year, each State that receives funds under subpart A of this part must participate in biennial State academic assessments of fourth and eighth grade reading and mathematics under the State National Assessment of Educational Progress (NAEP), if the Department pays the costs of administering those assessments.

(b) *Local participation.* In accordance with section 1112(b)(1)(F) of the Elementary and Secondary Education Act of 1965 (ESEA), and notwithstanding section 411(d)(1) of the National Education Statistics Act of 1994, an LEA that receives funds under subpart A of this part must participate, if selected, in the State-NAEP assessments referred to in paragraph (a) of this section.

(Authority: 20 U.S.C. 6311(c)(2); 6312(b)(1)(F), 9010(d)(1))

[67 FR 71715, Dec. 2, 2002]

#### STATE ACCOUNTABILITY SYSTEM

#### § 200.12 Single State accountability system.

(a)(1) Each State must demonstrate in its State plan that the State has developed and is implementing, beginning with the 2002-2003 school year, a single, statewide accountability system.

(2) The State's accountability system must be effective in ensuring that all public elementary and secondary schools and LEAs in the State make adequate yearly progress (AYP) as defined in §§ 200.13 through 200.20.

(b) The State's accountability system must—

(1) Be based on the State's academic standards under § 200.1, academic assessments under § 200.2, and other academic indicators under § 200.19;

(2) Take into account the achievement of all public elementary and secondary school students;

(3) Be the same accountability system the State uses for all public ele-

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mentary and secondary schools and all LEAs in the State; and

(4) Include sanctions and rewards that the State will use to hold public elementary and secondary schools and LEAs accountable for student achievement and for making AYP, except that the State is not required to subject schools and LEAs not participating under subpart A of this part to the requirements of section 1116 of the ESEA. (Approved by the Office of Management and Budget under control number 1810-0576)

(Authority: 20 U.S.C. 6311(b)(2)(A))

[67 FR 71715, Dec. 2, 2002]

#### ADEQUATE YEARLY PROGRESS (AYP)

#### § 200.13 Adequate yearly progress in general.

(a) Each State must demonstrate in its State plan what constitutes AYP of the State and of all public schools and LEAs in the State—

(1) Toward enabling all public school students to meet the State's student academic achievement standards; while

(2) Working toward the goal of narrowing the achievement gaps in the State, its LEAs, and its public schools.

(b) A State must define adequate yearly progress, in accordance with §§ 200.14 through 200.20, in a manner that—

(1) Applies the same high standards of academic achievement to all public school students in the State, except as provided in paragraph (c) of this section;

(2) Is statistically valid and reliable;

(3) Results in continuous and substantial academic improvement for all students;

(4) Measures the progress of all public schools, LEAs, and the State based primarily on the State's academic assessment system under § 200.2;

(5) Measures progress separately for reading/language arts and for mathematics;

(6) Is the same for all public schools and LEAs in the State; and

(7) Consistent with § 200.7, applies the same annual measurable objectives under § 200.18 separately to each of the following:

(i) All public school students.

(ii) Students in each of the following subgroups:

(A) Economically disadvantaged students.

(B) Students from major racial and ethnic groups.

(C) Students with disabilities, as defined in section 9101(5) of the ESEA.

(D) Students with limited English proficiency, as defined in section 9101(25) of the ESEA.

(c)(1) In calculating adequate yearly progress for schools, LEAs, and the State, a State—

(i) Must, consistent with § 200.7(a), include the scores of all students with disabilities, even those with the most significant cognitive disabilities; but

(ii) May include the proficient and advanced scores of students with the most significant cognitive disabilities based on the alternate academic achievement standards in § 200.1(d), provided that the number of those students who score at the proficient or advanced level on those alternate achievement standards at the LEA and at the State levels, separately, does not exceed 1.0 percent of all students in the grades assessed in reading/language arts and in mathematics.

(2) An SEA may request from the Secretary an exception permitting it to exceed the 1.0 percent cap. The Secretary will consider granting, for a specified period of time, an exception to a State if the following conditions are met:

(i) The SEA documents that the incidence of students with the most significant cognitive disabilities exceeds 1.0 percent of all students in the grades assessed.

(ii) The SEA explains why the incidence of such students exceeds 1.0 percent of all students in the combined grades assessed, such as school, community, or health programs in the State that have drawn large numbers of families of students with the most significant cognitive disabilities, or such a small overall student population that it would take only a very few students with such disabilities to exceed the 1.0 percent cap.

(iii) The SEA documents that it is fully and effectively addressing the requirements of § 200.6(a)(2)(iii).

(3)(i) A State may grant an exception to an LEA permitting it to exceed the 1.0 percent cap in paragraph (c)(1) of this section only if the State evaluates the LEA's request using conditions consistent with paragraph (c)(2) of this section.

(ii) The State must review regularly whether an LEA's exception to the 1.0 percent cap is still warranted.

(4) In calculating adequate yearly progress, if the percentage of proficient and advanced scores based on alternate academic achievement standards under § 200.1(d) exceeds the caps in paragraph (c)(1) through (3) of this section at the State or LEA level, the State must do the following:

(i) Consistent with § 200.7(a), include all scores of students with the most significant cognitive disabilities.

(ii) Count as non-proficient the proficient and advanced scores above the caps in paragraph (c)(1) through (3) of this section.

(iii) Determine which proficient scores to count as non-proficient in schools and LEAs responsible for students who take an alternate assessment based on alternate achievement standards.

(iv) Include those non-proficient scores in each applicable subgroup at the school, LEA and State level.

(v) Ensure that parents are informed of the actual academic achievement levels of their students with the most significant cognitive disabilities.

(d) The State must establish a way to hold accountable schools in which no grade level is assessed under the State's academic assessment system (*e.g.*, K-2 schools), although the State is not required to administer a formal assessment to meet this requirement.

(Approved by the Office of Management and Budget under control number 1810-0576)

(Authority: 20 U.S.C. 6311(b)(2))

[67 FR 71716, Dec. 2, 2002; 68 FR 1008, Jan. 8, 2003, as amended at 68 FR 68703, Dec. 9, 2003]

#### **§ 200.14 Components of Adequate Yearly Progress.**

A State's definition of AYP must include all of the following:

(a) A timeline in accordance with § 200.15.